

**REMARKS:**

This application has been reviewed in light of the Office Action mailed March 11, 2010. Reconsideration of this application in view of the below remarks is respectfully requested. By the present amendment, claims 44 and 50 are amended. No new subject matter is introduced into the disclosure by way of the present amendment. Claims 44 and 50 are pending in the application with claim 44 being in independent form.

**Claim objection**

Claims 44 and 50 are objected to because of informalities. Specifically, it is stated that “medial capsule” in line 1 of claims 44 and 50 should be “medical capsule.” The claims are amended in a manner believed to obviate the objection.

**Rejection under 35 U.S.C. 112, first paragraph**

Claims 44 and 50 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Specifically, it is stated that the limitation “curvable handle” does not exist in the application as originally filed. Claim 44 is amended to recite “foldable handle” instead of “curvable handle.” Support can be found at page 17, lines 6-8. Accordingly, Applicants respectfully request withdrawal of the rejection.

**Rejection under 35 U.S.C. 112, second paragraph**

Claims 44 and 50 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, it is stated that the claim is indefinite since the catch unit is a net, which is already defined as having a magnet, and then later defines a magnet or a magnetic material. Claim 44 is amended to delete the redundant phrase. Accordingly, Applicants respectfully request withdrawal of the rejection.

**Rejection under 35 U.S.C. § 103 (a)**

In the Official Action, the Examiner rejected claim 44 under 35 U.S.C. § 103 (a) as being unpatentable over Brockman (U.S. 3,540,433), Schuchardt et al. (U.S. 4,206,000) (hereinafter "Schuchardt") and further in view of Hoffman et al. (U.S. 2,617,996) (hereinafter "Hoffman"). Claim 44 is amended to recite "the catching unit is a net for retrieving or catching the medical capsule, and the net for retrieving or catching the capsule is formed of a magnet or a magnetic material for magnetically attracting one of a magnetic material and a magnet within the medical capsule, the net being elastically formed of a fine member and taking a shape of a bowl by gravity, the net having mesh with a size not allowing passage of the medical capsule."

Support can be found at page 17, lines 12-16 and Figures 5 and 6. None of the cited references teach the feature of the amended claim. Schuchardt and Hoffman teach a net or a web, which is formed in a plane shape. The net or the web is formed tight without hanging loosely from the frame. (See Figure 1 of Schuchardt and Figures 1 and 2 of Hoffman). Therefore, the net or the web cannot be said to take a shape of a bowl by gravity as recited in claim 44. Although Brockman may teach some kind of a container shape, it does not take a shape of a bowl by gravity, either. As can be seen in Figures 1 and 4, the net would take a different shape if it changes the shape by gravity. More specifically, the lowest point of the net would be more front side (the side where ties 54 are located) in Figure 1 and the center point of the bottom would sag and take V shape in Figure 4 if it changes the shape by gravity. Therefore, Brockman does not teach the net taking a shape of a bowl by gravity. Accordingly, claim 44 is patentable over Brockman, Schuchardt and/or Hoffman.

Claim 50 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Brockman, Schuchardt, Hoffman, and further in view of Paulin (U.S. 4,309,782) (hereinafter "Paulin").

Also, claim 50 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Brockman, Schuchardt, Hoffman, and further in view of Slover et al (U.S. 4,445,235) (hereinafter "Slover"). Both Paulin and Slover are cited as teaching a bag to enclose a specimen. However, neither references cure the deficiency of Brockman, Schuchardt and Hoffman discussed above. Therefore, claim 50, which depends on claim 44 is patentable over any combination of Brockman, Schuchardt, Hoffman, Paulin and Slover. Accordingly, Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103 (a).

**CONCLUSION**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, claims 44 and 50, are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicants' undersigned attorney at the number indicated below.

Respectfully submitted,

/Thomas Spinelli/

Thomas Spinelli  
Registration No. 39,533

SCULLY, SCOTT, MURPHY & PRESSER, P.C.  
400 Garden City Plaza - Suite. 300  
Garden City, New York 11530  
(516) 742-4343  
TS/NT/ae/ech